



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/568,037      | 08/16/2006  | Laurent Delmotte     | 339541US99PCT       | 2565             |

22850 7590 10/01/2009  
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.  
1940 DUKE STREET  
ALEXANDRIA, VA 22314

|          |
|----------|
| EXAMINER |
|----------|

BOLDEN, ELIZABETH A

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

1793

|                   |               |
|-------------------|---------------|
| NOTIFICATION DATE | DELIVERY MODE |
|-------------------|---------------|

10/01/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
oblonpat@oblon.com  
jgardner@oblon.com

|                              |  |  |  |
|------------------------------|--|--|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/568,037   | <b>Applicant(s)</b><br>DELMOTTE ET AL. |  |
|                              | <b>Examiner</b><br>ELIZABETH A. BOLDEN | <b>Art Unit</b><br>1793                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

Art Unit: 1793

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seto et al., U.S. Patent Application Publication 2003/0083188.

Seto et al. teach a green glass comprising a soda lime silica glass comprising in weight percentages: SiO<sub>2</sub> 65-80, Al<sub>2</sub>O<sub>3</sub> 0-5, MgO 0-10, CaO 5-15, Na<sub>2</sub>O 10-20, K<sub>2</sub>O 0-5, B<sub>2</sub>O<sub>3</sub> 0-5, and colorants T-Fe<sub>2</sub>O<sub>3</sub> 0.7-2.2, Se 0.0001-0.1, CoO 0.0001-0.1, Cr<sub>2</sub>O<sub>3</sub> 0.001-2, NiO 0.001-2. See paragraphs [0020]-[0029]. Seto et al. teach a YA (LTA) of 5-65%/ See paragraph [0030]. Seto et al. teach a redox of FeO/T-Fe<sub>2</sub>O<sub>3</sub> of 20-50. See paragraph [0050]. Seto et al. teach Excitation Purity of not greater than 9%. See paragraph [0058].

Seto et al. fail to teach any examples or compositional ranges that are sufficiently specific to anticipate the compositional limitations of claims 1-15. However, overlapping ranges have been held to establish prima facie obviousness. See MPEP 2144.05.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have selected from the overlapping portion of the ranges disclosed by the reference because overlapping ranges have been held to establish prima facie obviousness. See MPEP 2144.05.

One of ordinary skill in the art would expect that a glass with overlapping compositional ranges would have the properties recited in claims 1, 11, and 14.

Products of identical composition may not have mutually exclusive properties. In re Spada 15 USPQ2d 1655,1658 (Fed. Circ. 1990).

Claims 1, 2, and 4-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sasage et al., U.S. Patent RE37,514.

Art Unit: 1793

Sasage et al. teach a gray glass comprising a soda lime silica glass comprising in weight percentages: SiO<sub>2</sub> 65-75, Al<sub>2</sub>O<sub>3</sub> 0.1-5, MgO 1-6, CaO 5-15, Na<sub>2</sub>O+K<sub>2</sub>O 10-18, and colorants Se 5-150 ppm, CoO 200-500 ppm, Cr<sub>2</sub>O<sub>3</sub> 20-500ppm, T-Fe<sub>2</sub>O<sub>3</sub> 0.8-1.5. See column 4, 10-15 and column 2, line 3-10. Sasage et al. teach a LTA of at most 25%, T<sub>E</sub> of at most 25%, Purity at most 7%. See column 4, lines 40-65.

Sasage et al. fail to teach any examples or compositional ranges that are sufficiently specific to anticipate the compositional limitations of claims 1-15. However, overlapping ranges have been held to establish prima facie obviousness. See MPEP 2144.05.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have selected from the overlapping portion of the ranges disclosed by the reference because overlapping ranges have been held to establish prima facie obviousness. See MPEP 2144.05.

One of ordinary skill in the art would expect that a glass with overlapping compositional ranges would have the properties recited in claims 5, 7, and 11.

Products of identical composition may not have mutually exclusive properties. In re Spada 15 USPQ2d 1655,1658 (Fed. Circ. 1990).

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ELIZABETH A. BOLDEN whose telephone number is (571)272-1363. The examiner can normally be reached on 10 am to 6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorenzo can be reached on 571-272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1793

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Karl E Group/  
Primary Examiner, Art Unit 1793

Elizabeth A. Bolden  
Examiner  
Art Unit 1793

EAB  
28 September 2009